

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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CIMONTUBO – TUBAGENS E SOLDADURA,  
LDA

Plaintiff,

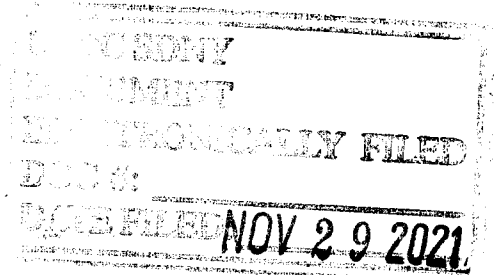
-against-

PETRÓLEOS DE VENEZUELA, S.A. and  
PDVSA PETRÓLEO, S.A.,

Defendants.  
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MEMORANDUM DECISION  
AND ORDER

20 Civ. 5382 (GBD)



GEORGE B. DANIELS, United States District Judge:

Plaintiff Cimontubo – Tubagens E Soldadura, LDA (“Cimontubo”) originally filed its motion for summary judgment in lieu of complaint pursuant to N.Y. C.P.L.R. § 3213 in the New York State, Supreme Court, New York County. Plaintiff alleges that Defendants Petróleos De Venezuela, S.A. (“PDVSA”) and PDVSA Petróleo, S.A. defaulted on a promissory note and note agreement by failing to pay the outstanding principal and interest balance. (Mem. of Law in Supp. of Pl.’s Mot. for Summary J. in Lieu of Compl., Exhibit A, ECF No. 1-1, at 171.) This Court granted Plaintiff’s motion for summary judgment on March 4, 2021 (Mem. Decision and Order dated March 4, 2021 (“March 4 Decision”), ECF No. 37) and referred the matter to Magistrate Judge Gorenstein for inquest on attorney’s fees, costs, and interest.<sup>1</sup>

Before this Court is Magistrate Judge Gorenstein’s June 17, 2021, Report and Recommendation (the “Report”), recommending that this Court enter judgment for Plaintiff in the amount of \$45,424,081.20, as of April 2, 2021, with additional pre-judgment interest accruing

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<sup>1</sup> On November 1, 2021, this Court denied Defendants’ motion for reconsideration of the March 4 Decision. See ECF No. 62.

each day in the amount of \$8,919.02, until the date judgment is entered as well as \$119,818.00 in attorney's fees and \$4,715.35 in costs. (Report, ECF No. 59, at 1-2.)

Magistrate Judge Gorenstein advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.* at 11-12.) No objections were filed.

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). "In clear error review, a court should reverse a finding only if it is 'left with the definite and firm conviction that a mistake has been committed,' and not merely if it 'would have decided the case differently.'" *Hernandez v. City of New York*, No. 11 Civ. 6644 (KPF) (DF), 2015 WL 321830, at \*2 (S.D.N.Y. Jan. 23, 2015) (quoting *Easley v. Cromartie*, 532 U.S. 234, 242 (2001)).

Magistrate Judge Gorenstein conducted a comprehensive and careful inquest. This Court finds no error, clear or otherwise in the Report's analysis. Accordingly, this Court adopts Magistrate Judge Gorenstein's recommended judgment regarding damages, attorneys' fees, and costs for the reasons stated in the Report.

Magistrate Judge Gorenstein's Report is ADOPTED in its entirety, except an additional \$56,692.13 in attorney's fees is entered for the Plaintiff.<sup>2</sup> Thus, final judgment shall be entered ordering Defendant to pay Plaintiff: (1) \$45,424,081.20, plus an amount representing pre-judgment interest to be calculated by the Clerk at the rate of \$8,919.02 per day starting on April 3, 2021,

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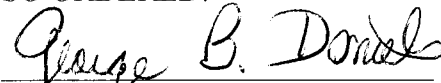
<sup>2</sup> Plaintiff's June 24, 2021 letter, (ECF No. 60) informed this Court that, as of that date, Plaintiff had incurred an additional \$56,692.13 in attorney's fees and requested that that amount be added to any judgment. Defendants did not object to this amount. Thus, this Court grants Plaintiff's request.

through the date judgment is entered; (2) \$176,510.13 in attorney's fees; (3) \$4,715.35 in costs.

Post-judgment interest should accrue at the rate of \$8,919.02 per day.

Dated: New York, New York  
November 29, 2021

SO ORDERED.

  
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GEORGE B. DANIELS  
United States District Judge